

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

MISCELLANEOUS CIVIL APPLICATION NO.3 OF 2019

NEHA VIJAY SADAVARTE
VERSUS
VIJAY DNYANESHWAR SADAVARTE

...
Shri Vijay Y. Patil, Advocate for the applicant.
Shri B.A.Shinde, Advocate for the respondent.
...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 21st June, 2019

Per Court:

1 On 15.01.2019, I had passed the following order :-

"1 *The Applicant/ wife prays for transferring Hindu Marriage Petition No.44/2018 filed by the Respondent/ Husband before the learned Civil Judge, Senior Division, Vasmat, District Hingoli to the Court of the learned Civil Judge, Senior Division, Jalgaon.*

2 *It is submitted that the marriage was solemnized on 17.12.2012 and out of this wedlock, one male child was born, who is about three years of age. However, the Respondent/ husband and his relatives started ill-treating and harassing the Applicant/ wife for one reason or the other. The Applicant/ wife was compelled to leave the marital home and since then, the Applicant is residing along with her parents. The distance between Vasmat, District Hingoli and Jalgaon is about 380 kilometers. Being a lady, an adult member of the family has to accompany her. The Applicant has also filed the proceedings under Section 125 of the Code of Criminal Procedure at Jalgaon and the Respondent/ husband attends the said proceedings at Jalgaon.*

3 *Reliance is placed upon the following judgments :-*

- (a) *Sumita Singh vs. Kumar Sanjay*, (2001) 10 SCC 41 : AIR 2002 SC 396.
- (b) *Mahadevi Mehtre vs. Gopal*, 2015 (5) AIR Bom. 250.
- (c) *Mona Aresh Goel vs. Aresh Satya Goel*, 2000 (9) SCC 255 : AIR 2000 SCW 2652.
- (d) *Ravinder Kaur vs. Hitinder Singh*, AIR 2000 SC 3403 (2).
- (e) *Rena Gautam vs. Vinod Gautam*, AIR 2000 SC 3405 (1).
- (f) *Soma Choudhury vs. Gourab Choudhary* (2004) 13 SCC 462.
- (g) *Anjali Ashok Sadhwani vs. Ashok Kishinchand Sadwani*, AIR 2009 SC 1374.
- (h) *Vaishali Shridhar Jagtap vs. Shridhar Vishwanath Jagtap*, AIR 2016 SC 3584.
- (i) *Reena Mehra vs. Rohit Rai Mehra*, AIR 2003 SC 1002.
- (j) *Rakhi Banerjee vs. Subhankar Mukherje*, AIR 2009 SC 928.
- (k) *T.Gayatri Devi vs. Tallepaneni Sreekanth*, 2013 (6) Bom. C.R. 119 (Supreme Court).
- (l) *Anita Balkrishna Barge vs. Balkrishna Sopan Barge*, 2011 (3) Bom. C.R. 866 (Aurangabad Bench).
- (m) *Smita Dhananjay Patil vs. Dhananjay Krishnakumar Patil*, 2013 (5) Bom.C.R. 694 (Aurangabad Bench).
- (n) *Kalpana Pankaj Rozatkar vs. Pankaj Supadu Rozatkar*, 2013 (6) Bom.C.R. 161 (Aurangabad Bench).
- (o) *Sayali Swapnil Kuber vs. Swapnil Harischandra Kuber*, 2014 (1) Mh.L.J. 584 (Nagpur Bench).

4 *Issue notice to the Respondent returnable on 22.02.2019.*

5 *Till then, the concerned Court shall adjourn HMP No.44/2018.*

6 *The copy of the application memo for issuance of notice, if not already supplied, shall be supplied and the office objection, if any, shall also be removed on or before 22.01.2019, failing which, this application shall stand rejected without reference to the Court on 23.01.2019."*

has also preferred Criminal Misc. Application No.961/2018 under Section 125 of the Code of Criminal Procedure for seeking maintenance from the respondent/ husband at Jalgaon and the husband attends the said proceeding at Jalgaon.

3 The learned advocate appearing on behalf of the respondent/ husband submits that presently, he is working as the Gram Sevak in Vasmat taluka. It is not possible for him to frequently travel out of the area for attending the litigation. Instead, he is willing to pay for traveling expenses of the applicant/ wife, if she agrees to travel by the State Road Transport Bus.

4 In my view, in matters of such nature, the comparative hardships of the litigating sides have to be assessed. The applicant/ wife has a three year old child residing with her. She will have to travel a distance of 380 kilometers to reach Vasmat. It would, therefore, about 760 kilometers for a two way journey and would require two night journeys to attend the proceedings. Being a lady, an adult member of the family will have to travel with her. The lodging and boarding expenses would also be incurred. Per contra, the respondent/ husband is already attending the proceedings at Jalgaon. He can be granted liberty to attend both the proceedings on common dates in his visits to Jalgaon.

5 In view of the above, this Miscellaneous Civil Application is allowed. HMP No.44/2018 shall stand transferred to the court of the

learned Civil Judge, Senior Division, Jalgaon.

6 Since the next date in the proceeding initiated by the wife is 09.07.2019, both these parties shall appear in the transferred proceeding at Jalgaon on the same day. Both the courts at Jalgaon would accommodate the respondent/ husband by granting common dates, on which he can attend both the proceedings in his common visits to Jalgaon.

kps

(RAVINDRA V. GHUGE, J.)